

MAY 7 2001

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY [Signature]

In the Matter of:

WESTPORT INSURANCE CORPORATION

NAIC # 34207

Respondent

) Docket No. 01A-120-INS

) CONSENT ORDER

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Westport Insurance Corporation ("Westport"). The Report of Examination of the Market Conduct Affairs of Westport alleges that Westport has violated A.R.S. §§20-385, 20-400.01, 20-462, 20-1674 and 20-1677.

Westport wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Westport is authorized to transact property and casualty insurance, pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of Westport. The examination covered the period of January 1, 1995 through December 31, 1998 and was concluded on May 6, 1999. Based on their findings, the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Westport Insurance Corporation" dated May 6, 1999.

3. The Examiners reviewed the commercial multi-peril policies issued by Westport during the time frame of the examination and found that the Company failed

1 to file the loss cost factor used in the issuance of 40 general liability policies. Westport
2 voluntarily notified the Department regarding the loss cost factors to rectify the
3 omission.

4 4. The Examiners reviewed 58 of 899 community association package
5 policies issued by the Company during the time frame of the examination and found as
6 follows:

7 a. Westport failed to develop premiums consistent with its filed rates
8 and rules on 12 policies.

9 b. Westport failed to maintain adequate documentation to justify the
10 adjustments made in the IRPM schedule-rating plan on ten policies.

11 c. Westport failed to mail five policyholders written notice of premium
12 increase, change in deductible or reduction in limits or substantial reduction in
13 coverage, at least 60 days before the expiration date of the policy.

14 5. The Examiners reviewed 51 of 145 commercial multi-peril policies
15 cancelled by Westport during the timeframe of the examination and, although the
16 refunds were promptly issued, found that the Company failed to include the refund of
17 unearned premium with two policy cancellation notices.

18 6. The Examiners reviewed 64 of 206 claim files settled during the time
19 frame of the examination and found as follows:

20 a. Westport failed to pay the full amount of fees and the correct
21 amount of taxes by deducting a salvage amount from the value of the vehicle prior to
22 the calculation of taxes.

23 b. Westport failed to pay interest at the legal rate to three claimants
24 whose claims were not paid within 30 days of receipt of acceptable proof of loss.

25 c. Westport failed to disclose the full safety glass coverage and

1 charged a comprehensive deductible for a broken windshield on one first party claim
2 file.

3 7. Westport overcharged two of 58 community association package
4 policyholders a total of \$440.00 by charging an unfiled rate and by using an incorrect
5 territory code, and underpaid five commercial multi-peril policy claimants a total of
6 \$445.75 by incorrectly calculating deductions, failing to pay interest on claims not paid
7 within 30 days of proof of loss and by applying a deductible for a broken windshield on
8 a policy with full glass coverage. Westport later endorsed the policies to correct the
9 two rating errors and paid all underpayments totaling \$746.25, except for \$139.50 plus
10 interest on one first party claim.

11 CONCLUSIONS OF LAW

12 1. Westport violated A.R.S. §20-385(A) by failing to file its loss cost factors
13 for general liability policies.

14 2. Westport violated A.R.S. §20-400.01(A) by issuing community package
15 policies with premiums developed other than on the basis of its rates and rules filed
16 pursuant to A.R.S. §20-385(A).

17 3. Westport violated A.R.S. §20-400.01(B)(2) by making adjustments to full
18 manual premium developed rates for community association package policies without
19 adequate documentation supporting the adjustment.

20 4. Westport violated A.R.S. §20-1677(A) by failing to mail to the named
21 insured written notice of premium increase, change in deductible or reduction in limits
22 or substantial reduction in coverage at least 60 days before the expiration date of the
23 policy.

24 5. Westport violated A.R.S. §20-1674(B) by failing to include the unearned
25 premium refund with the cancellation notice sent to the insured.

6. Westport violated A.R.S. §20-462(A) by failing to pay interest on first party claims not paid within 30 days after its receipt of an acceptable proof of loss,

7. Grounds exist for the entry of the following Order, in accordance with A.R.S. §20-220, 20-400.03 and 20-456.

ORDER

IT IS ORDERED THAT:

1. Westport Insurance Corporation shall not:

a. Fail to file all rate and supplementary rate information for use in this state within 30 days after they become effective, for general liability policies.

b. Fail to develop premiums that are consistent with its filed rates and rules.

c. Fail to maintain adequate justification in support of adjustments given on IRPM schedule rating plans for community association package policies.

d. Fail to notify insureds at least 60 days before the expiration date of the policy of a premium increase, change in deductible or reduction in limits or substantial reduction in coverage on community association package policies.

e. Fail to have unearned premium refunds accompany the cancellation notice sent to the insured on commercial multi-peril policies.

f. Fail to pay interest on first party claims not paid within thirty days after receipt of an acceptable proof of loss.

2. Within 90 days of filed date of this Order, Westport Insurance Corporation shall submit to the Arizona Department of Insurance, for approval, evidence that corrections have been implemented and communicated to the appropriate personnel regarding all of the items mentioned in Paragraph 1 of the Order section of this Consent Order. Evidence of corrective action and communication

thereof includes but is not limited to memos, bulletins, E-mails, correspondence, procedures manuals, print screens and training materials.

3. Within 90 days of the filed date of this Order, Westport Insurance Corporation shall pay \$139.50 in unpaid taxes from ACV, plus interest at the rate of 10% per annum calculated from the date the claim was received by Westport to the date of payment, to the claimant in claim number 406176.

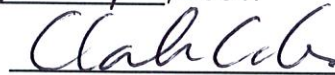
4. The payment made in accordance with Paragraph 3 above shall be accompanied by a letter to the insured in a form previously approved by the Director. A list of the name and address of the party paid, the amount of the payment, the amount of interest paid, and the date of payment, shall be provided to the Department within 90 days of the filed date of this Order.

5. The Department shall be permitted, through authorized representatives, to verify that Westport Insurance Corporation has complied with all provisions of this Order.

6. Westport shall pay a civil penalty of \$6,000.00 to the Director for deposit in the State General Fund in accordance with A.R.S. §20-220(B). This civil penalty shall be provided to the Market Conduct Examinations Section of the Department prior to the filing of this Order.

7. The Report of Examination of the Market Conduct Affairs of Westport Insurance Corporation, dated May 6, 1999, including the letter submitted in response to the Report of Examination, shall be filed with the Department after the Director has filed this Order.

DATED at Phoenix, Arizona this 4th day of May, 2001.


Charles R. Cohen
Director of Insurance

CONSENT TO ORDER

1. Westport Insurance Corporation has reviewed the attached Consent Order.

2. Westport Insurance Corporation admits the jurisdiction of the Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

3. Westport Insurance Corporation is aware of its right to a hearing, at which it may be represented by counsel, present evidence and cross-examine witnesses. Westport Insurance Corporation irrevocably waives its right to such notice and hearing and to any court appeals related to this Order.

4. Westport Insurance Corporation states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

5. Westport Insurance Corporation acknowledges that the acceptance of this Order by the Director of Insurance, State of Arizona, is solely to settle this matter against it and does not preclude any other agency or officer of this state or its subdivisions or any other person from any other civil or criminal proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

6. Steve Stephan, who holds the office of Vice President & General Counsel of Westport Insurance Corporation, is authorized to enter into this Order for it and on its behalf.

WESTPORT INSURANCE CORPORATION

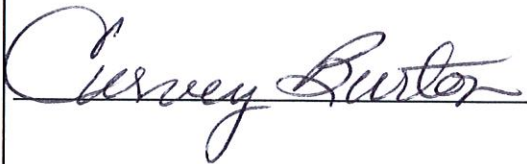
April 24, 2001 By: Steve Stephan
Date

1 COPY of the foregoing mailed/delivered
This 7th day of May 2001, to:

2
3 Sara Begley
Deputy Director
4 Mary Butterfield
Assistant Director
5 Market Conduct Division
Paul J. Hogan
6 Chief Market Conduct Examiner
Market Conduct Examinations Section
7 Deloris E. Williamson
Assistant Director
8 Rates & Regulations Division
9 Steve Ferguson
Assistant Director
10 Financial Affairs Division
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11 Assistant Director
Life and Health Division
12 Nancy Howse
Chief Financial Examiner
13 Terry L. Cooper
Fraud Unit Chief
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